REMARKS

This Amendment is submitted in full response to the outstanding Office Action dated January 29, 2003, wherein all of the original claims 1 through 48 were rejected. More specifically, claims 15 through 18, 22 and 24 through 48 stand rejected under 35 U.S.C. 112, second paragraph. Original claims 1 through 3, 19 and 23 stand rejected under 35 U.S.C. 102(a) as being anticipated by Apigent Solution™'s product ZEOM.net™ (hereinafter the "ZEOM product"), as disclosed in the following publications:

1. Oklahoma Telecom Forms New Tech Subsidiary, Apigent Solutions™, published November 21, 2000 (hereinafter the "Oklahoma Telecom" publication).

2. Waters, "Operators Eye Potential of ASP to Empower Field Staff", published January 1, 2001 (hereinafter the "Waters" publication).

3. "Real-Time Return on Investment: ZEOM.net™ in the Quick-Serve Environment", published September 6, 2001 (hereinafter the "Real-Time" publication).

Also, claim 4 stands rejected under 35 U.S.C. 103(a) as being unpatentable over the ZEOM product as disclosed in the above-noted publications. Claims 5 through 18, 20 through 22, and 24 through 48 stand rejected under 35 U.S.C. 103(a) as being unpatentable over the ZEOM product as disclosed in each of the above-noted publications in combination with Richardson (U.S. Patent No. 5,867,823). Further, the drawings stand objected to as failing to

comply with Rule 1.84(p)(5), because they include a few reference numerals which were not mentioned in other parts of the application. Finally, a minor objection was also made to claim 8, which Applicant was asked to correct.

Applicant is highly appreciative of the Examiner's detailed and conscientious review of this application, and respectfully asks for her reconsideration of same, including the amended and new claims presented herein, in light of the following remarks.

I. Resolution of Objections to Drawings and Claim 8.

In response to the objection made concerning the drawings in this application, the specification has been amended herein so as to insert the reference numerals (58, 76 and 80) indicated by the Examiner. The specification has further been amended to overcome any informalities or inconsistencies in the language thereof and in an effort to more clearly describe Applicant's invention and/or features thereof. Care was taken not to add any new subject matter in doing so. With regard to the objection to claim 8, this claim has been amended to insert the word "of" as noted by the Examiner.

II. Resolution of Section 112 Issues.

As noted above, claims 15 through 18, 22 and 24 through 48 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

On pages 3 and 4 of the Office Action, the Examiner refers to specific language in the indicated claims which is deemed inconsistent and not in compliance with 35 U.S.C. 112. While certain claims have been cancelled in this Amendment, without prejudice, all remaining claims subject to the outstanding rejection under 35 U.S.C. 112 have been amended to overcome the noted inconsistency in the claim language. Therefore, it is now believed that this rejection has been overcome; all claims present in this application should now meet the requirements of Section 112.

III. Section 102 and 103 Issues

A. Legal Framework

Before reviewing the substantive issues involved with the rejection of the claims under 35 U.S.C. 102 and 103, Applicant respectfully points out the legal framework associated therewith. First, and with regard to Section 102 of the statute, it is a well established requirement that:

> [For] a prior art reference to anticipate in terms of 35 USC 102, **every** element of the claimed invention must be **identically** disclosed in a single reference. Diversitech Corp. v. Century Steps, Inc., 7 USPQ2d 1315, 1317 (Fed. Cir. 1988) (emphasis added).

Moreover, this burden on the U.S. Patent and Trademark Office ("PTO") is compounded by the fact that within the single reference cited:

> the identical invention must be shown in as complete detail as contained in the patent claims. Richardson v. Suzuki Motor Co. Ltd., 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

As such, if the Applicant can establish that certain claimed elements *are not present* or disclosed *in the prior art references* put forth by the Examiner, the grounds for rejection pursuant to section 102 have been overcome. Second, when the grounds for rejection under 35 U.S.C. §102 have been overcome, the U.S. Patent and Trademark Office ("PTO") cannot merely turn to 35 U.S.C. §103 as a basis for maintaining a rejection without first meeting the requisite burden of establishing a prima facie case of obviousness. With regard to Section 103 of the statute, decisions of the Federal Circuit specifically instruct that:

> In proceedings before the Patent and Trademark Office, the Examiner bears the burden of establishing a prima facie case of obviousness based upon the prior art [and further that] the mere fact that the prior art **may** be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modifications. In re Fritch, 23 USPQ2d 1780, 1783 (Fed. Cir. 1992) (emphasis added).

This point was further emphasized by the Federal Circuit wherein it was stated:

> As this court has stated, "virtually all [inventions] are combinations of old elements." *Environmental Designs, Ltd. v. Union Oil Co.*, 713 F.2d 693, 698, 218 USPQ 865 870 (Fed. Cir.) 1983) ... ***Therefore, an examiner may often find every element of a claimed invention in the prior art. If identification of each claimed element in the prior art were sufficient to negate patentability, very few patents would ever issue.*** Furthermore, rejecting patents solely by finding prior art corollaries for the claimed elements would permit an examiner to use the claimed invention itself as a blueprint for piecing together elements in the prior art to defeat patentability of the claimed invention. Such an approach would be "an illogical and inappropriate process by which to determine patentabilty." *Sensonics, Inc. v. Aerosonic Corp.*, 81 F.3d 1566, 1570, 38 USPQ2d 1551, 1554 (Fed. Cir. 1996).
>
> "To prevent the use of hindsight ... to defeat patentability of the invention, this Court requires the Examiner show a

> motivation to combine the references that create the case of obviousness. In other words, the Examiner must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed. In re: Rouffett, 47 USPO 2d 1453, 1455 (CAC 1998). (Emphasis added).

With this legal framework in mind, the Applicant will now turn to addressing the invention, as recited in the claims presented herein.

B. One Reference Cited by PTO against Applicant's Claimed Invention *Cannot* Qualify as Valid Prior Art

As indicated above, claims 1-3, 19 and 23 stand rejected under 35 U.S.C. 102(a) based on the PTO's conclusion that Applicant's invention, as recited therein, is anticipated by the ZEOM product **as disclosed and described in** the Oklahoma Telecom, Waters, and Real-Time publications. The Examiner has clearly indicated that the third reference, namely, the Real-Time publication, was published *five months after Applicant's filing date;* but it is stated in the Office Action that this Real-Time publication should nevertheless "qualify as valid prior art since the disclosure within merely provides further support of the features of ZEOM.net™ already described in the [the other two] articles ... " (OA-Pg 5).

The Applicant respectfully disagrees completely with the PTO's position on this point, for reasons about to be explained, and hereby requests that the Real-Time publication be removed from consideration as a prior art reference, whether under 35 U.S.C. 102(a) or otherwise.

More specifically, the Real-Time publication describes a hypothetical situation involved in the monitoring of one or more food sites allegedly using the ZEOM product. However, since the Real-Time publication relates to a **theoretical application** rather than a description of an actual, real life use, it offers no significant indication or proof that the ZEOM product, **as described in the Real-Time publication**, was in existence prior to Applicant's invention, as required by 35 U.S.C. 102(a). Accordingly, Applicant contends that the Real-Time publication can only be considered as a published description of a system available **after** Applicant's invention and cannot be offered as a disclosure of the content of the ZEOM product **prior** to Applicant's invention, since it was not published until some five months ***after*** Applicant's filing date. Simply put, the Real-Time publication cannot be relied on by the Examiner as a basis for determining the structural, functional and operational features of the **ZEOM product.**

Accordingly, Applicant contends that the content of the Zeom product must be limited to the description provided in the Oklahoma Telecom publication and the Waters publication, both of which were published prior to the filing date of Applicant's invention, as set forth above.

Applicant further contends that the Examiner cannot take "official notice" that operational details of the ZEOM product, as described in the Real-Time publication, were in existence prior to the filing date of Applicant's invention without the submission of proof -- such as by additional printed publications that pre-date

Applicant's filing date. If such additional operational details of the ZEOM product were within the personal knowledge of the Examiner, it is requested that such personal knowledge be adequately documented in accordance with proper PTO procedure.

C. Applicant's Claimed Invention

As noted above, with this Amendment independent claims 1 and 36 have been cancelled, along with certain dependant claims, without prejudice to representing them in a continuing case, and their rejection under Section 102 or 103 of the patent statute is therefore, moot. However, independent claim 24 has been amended, along with certain dependent claims, and new independent claims 49 and 53 have been added, along with new dependent claims 50 through 52 and 54. As such, Applicant provides the following comments which demonstrate the patentability of these claims, despite the cited references, and the Examiner's careful consideration of these claims and comments is respectfully requested.

1. Claim 24, as Amended.

Referring now to Applicant's invention independent claim 24, this was rejected in the Office Action under 35 U.S.C. Section 103. Independent claim 24, as amended, recites a system for monitoring a food service site comprising a portable processor assembly operable at the site and comprising memory, a display and input facilities, and including a monitoring program evident on the display and capable of determining whether the site is in operational compliance with a plurality of pre-determined standards defining acceptable performance parameters for a number of

operational categories. It has been described in the specification that these standards are likely those promulgated by the U.S. government relating to meat and food storage, preparation and service, etc. which are known as "Hazard Analysis Critical Control Point" or HACCP. In addition, claim 24 as amended recites that the monitoring program comprises a task application that includes a plurality of interactive test items requiring a user response, and further, a corrective application comprising a plurality of corrective actions evident on the display and which are responsive to the detection of a user response which is non-compliant. As such, the Applicant's inventive system, as claimed, provides for both **"real time" monitoring** of a plurality of operational categories and **"real time" resolution** of non-compliant conditions of the operational categories being monitored. Further, the invention as claimed in claim 24 calls for the generation and processing of result records in order to evidence a pattern of compliance with the predetermined standards, and collectively, these features allow the invention to meet or exceed the U.S. government's HACCP standards and thereby, offer significant advantages over any system taught by the prior art.

It should be apparent that Applicant's system as recited in this amended claim provides for a **true** "real time" monitoring procedure, due at least in part to the use of a portable processor which is operable at the food site being monitored. The "real time" monitoring procedure includes not only the determination that the plurality of operational categories are in compliance with

acceptable performance parameters, but also provides on a **"real time" basis**, that any noncompliant test items being reviewed are corrected by virtue of the corrective application of the monitoring program. The corrective application recited in Applicant's invention comprises a plurality of corrective actions communicated to the user when the user response indicates that the operational category being monitored is non-compliant with corresponding ones of the predetermined standards. The corrective actions are communicated to the user by means of the portable processor.

The importance of the corrective application is due, at least in part, to the regulatory requirements of the FDA, and in particular, to the afore-mentioned Hazard Analysis and Critical Control Point (HACCP) guidelines. HACCP specifically requires that the operational categories associated with the operation of food sites not only maintain certain standards, but also require that immediate corrective action be taken in order to correct any noncompliant procedures or facilities associated with the food site. Applicant's invention, as recited in claim 24, performs both the needed monitoring procedure and the required corrective actions on a true "real time" basis and is, therefore, readily distinguished from the cited references to the ZEOM product, whether considered either singularly or in combination with the Richardson patent. The invention as claimed further recites result records comprised of data derived from a collection of the user responses in order to evidence a pattern of compliance with the predetermined standards, which is yet another feature that serves

to further distinguish Applicant's invention from the cited references.

2. Amended Claim 24 Distinguished from Publications for the Zeom Product.

Turning more in detail to the cited Oklahoma Telecom and Waters references[1], the ZEOM product is disclosed as a monitoring system for a plurality of food service sites, but importantly, one that is primarily based on the notification or alerting of corporate, field and/or site managers to problems existing at the one or more sites being monitored. These publications indicate that the ZEOM product is an Internet based application which offers both remote and on-site managers the ability to monitor the various food sites through the use of a combination of data and video streaming feeds. However, a thorough review of the publications describing the ZEOM product clearly indicates that although alerts or signals are communicated to the managing personnel by means of computers, wireless devices, mobile phones, pagers, PDA's, etc., these devices are used only for their conventional communication functions. As a result, the ZEOM product does **not** include the use of a portable processor assembly, which is operable at the site and which includes a memory, display and input facilities for active or "real time" participation in the review of the performance characteristics of a variety of different operational categories by means of communicating to a user a plurality of interactive test

[1] Applicant has already urged the PTO to withdraw the citation to the Real Time publication as not being properly cited as prior art, and the reasons therefor.

items, each requiring the selection by the user of one or more user responses.

Applicant notes the Examiner's reference to the Waters publication, at paragraphs 2, 3, 10 and 16, in support of her contention that the ZEOM product utilizes a local processor. However, this is similarly distinguishable from Applicant's claimed invention because the ZEOM product does not call for active participation in the monitoring procedure, and certainly does not call for interactive test items, user responses, and corrective action(s) displayed on a portable processor. In short, the communication devices described in the Waters publication operate as communication devices only, by receiving alerts or in the case of a personal computer in reviewing data as a result of an alert received from a one or more food sites.

Therefore, the ZEOM product as described in the above-noted publications does not anticipate nor even suggest Applicant's invention, as recited in claim 24. While examples are provided in these publications wherein noncompliant procedures, employee actions, etc. are reviewed, it is quite different from Applicant's invention because the taking of corrective action clearly remains *in the discretion of* the managerial personnel, and if corrective action is taken in any event, it would consistently be taken *at a later time*. The resolve of a noncompliant condition is not determined by a user receiving interactive test items and requiring user responses, and there no result records are generated to demonstrate a pattern of compliance with predetermined standards.

Accordingly, Applicant asserts that the ZEOM product -- which utterly lacks a portable processor having the ability to communicate directly with the user on a **true "real time" basis**, and which further fails to provide interactive test items that require user responses and designate corrective action(s) -- instead teaches away from Applicant's claimed invention. In short, the cited ZEOM product does **not** disclose a monitoring system capable of both real time monitoring and correction of a plurality of operational categories.

In addition to the above, the Examiner recognizes certain specific deficiencies in the ZEOM product, even if the description found in the later dated Real-Time publication were an appropriate cited reference. The recognized deficiencies include the absence in the ZEOM product of teaching predetermined standards which comprise both regulatory requirements and government requirements, wherein the regulatory requirements may exceed those required by the government. Additional recognized deficiencies include the ZEOM product being absent the ability or need to display corrective actions per se to a user. The ZEOM product is also absent the scheduling of tasks that need to be performed or the provision of an alert when a scheduled task is not performed in a timely manner. Finally, the Examiner recognizes that the ZEOM product does not explicitly teach the automatic selection of at least one of a provided plurality of user responses.

3. Amended Claim 24 Distinguished from the ZEOM Publication in Combination with Richardson.

As noted above, the publications on the ZEOM product fail to teach Applicant's invention, and consequently, the PTO Office Action also cites the combination of the ZEOM product with U.S. Pat. No. 5,867,823 to Richardson in rejecting several of the original claims presented under Section 103 of the statute. Applicant contends that the U.S. PTO has not met its burden of establishing a prima facie case of obviousness, and further, that this combination is a clear application of the hindsight knowledge of Applicant's invention, which is forbidden under U.S. patent practice.

More specifically, the ZEOM product relies primarily on the communication of alerts and video image streaming for the monitoring of both the facilities as well as the workers at one or more food sites. Therefore, there is no need in the ZEOM product for the use of a portable processor operationally linked to a monitoring program, as called for in Applicant's invention which is carried throughout the food service site for the determination of compliant performance of a plurality of operational categories with certain predetermined standards. Further, the ZEOM product does not require the communication of a plurality of interactive test items, each presented to the user for determination of the performance of the operational categories and also does not require at least one of a plurality of predetermined user responses being generated by the user. To the contrary, the ZEOM product relies

primarily on the ability of its managing staff to overcome and decide upon the solution of a noncompliant event occurring at one or more of the food sites. As such, the ZEOM product teaches away from the use of a portable processor, let alone one such as that disclosed in the Richardson patent. In fact, no motivation can be found in these references to support their combination, and as such, it seems the suggested combination is based on hindsight knowledge of Applicant's own invention.

Moreover, a thorough review of the Richardson patent clearly indicates that the deficiencies recognized in the ZEOM product are not overcome by the system and procedures demonstrated in the Richardson patent. For example, while Richardson does demonstrate the use of a portable processor, that processor would have no purpose or meaning when applied to the monitoring system of the ZEOM product. Even if the combination of these references were viable, the result would still not render the Applicant's invention, as claimed, obvious. For instance, the operational details of the Richardson patent do not disclose the use of a monitoring program for determining whether **a plurality of different operational categories** are in compliance with predetermined standards. Richardson does not teach the communication of a plurality of interactive test items to a user, as recited in Applicant's amended claim 24, wherein each of the test items require the selection by the user of one or more user responses which are also communicated to the user by the display of the portable processor. Also, there is not the slightest suggestion in

Richardson of a corrective application incorporated within a monitoring program which requires **corrective action(s)** by the user, wherein the corrective actions are distinguishable from the aforementioned interactive test items. Further, Richardson does not disclose or suggest the required submission of supplementary user responses to assure that compliance of each of a plurality of operational category has been attended to.

At most, the Richardson patent details certain operational components of maintaining a retail center, such as cleaning the floors of a grocery store, and in doing so, the user must acknowledge certain safety features such as wearing goggles, using gloves, etc. Such features, however, fall far short of those followed by a food service site seeking to comply with the government's HACCP guidelines and/or to exceed those guidelines, which the Applicant's invention, as claimed, seeks to address. The use of the Richardson processor as a bar code reader does not anticipate or at all render obvious the communication to the user of a plurality of interactive test items and required user responses, as recited in Applicant's invention, wherein both the interactive test items and the user responses are determinative of a plurality of different operational categories being in compliance with predetermined standards, and further wherein some of the user responses require immediate corrective action(s) by the user.

Accordingly, it is submitted that amended claim 24 and all claims depending therefrom are patentable over the references of record and should be allowed.

4. New Independent Claim 49.

Similarly, it is submitted that new independent claim 49 is patentable. This claim also defines a system for monitoring a food service site comprising the use of a portable processor operable at the site and comprising a memory, display and input facilities, and further including a monitoring program. The monitoring program is determinative of compliant operational performance of a plurality of different operational categories, such as those associated with the government's HACCP guidelines, with these and other details for the operational categories being set forth in the specification. Further, and similar to claim 24, as amended, the monitoring program includes a task application communicated to a user in the form of a plurality of interactive test items, preferably on the display of the processor, and wherein the interactive nature of the test items allows the user to determine the currently existing conditions associated with each of the plurality of operational categories being monitored. The monitoring program recited in new claim 49 also comprises a corrective application such that any one of a plurality of corrective actions can be displayed when a user response indicates that non-compliance with one of the plurality of predetermined standards which define acceptable performance parameters of the operational categories.

As such, and for reasons generally along the lines of those discussed with reference to amended claim 24, this new claim 49 is submitted to be patentable over the cited references. Moreover, this claim further recites that the corrective actions further

necessitate that the user provide a supplementary response indicating what corrective actions have been taken in order to correct the noncompliant conditions of the operational categories being monitored. Both the corrective actions and the supplementary responses are communicated to the user by means of the portable processor, and this claimed recitation serves to further distinguish the invention, as claimed, from the references of record, such that it should also be allowed.

5. New Independent Claim 53.

Similarly, it is submitted that new independent claim 53 is patentable. This claim recites a process for monitoring operation of a food service site which among other steps, calls for providing a user with a plurality of interactive test items determinative of a degree of performance of the plurality of operational categories, providing the user with a plurality of user responses, and requiring the user to select a user response indicative of an existing condition corresponding one of the plurality of operational categories being monitored for performance. As such, and for reasons generally along the lines of those discussed with reference to amended claim 24, and new claim 49, this new claim 53 is also submitted to be patentable over the cited references and should be allowed.

6. New Dependent Claims 50 - 52 and Dependent Claims 25-26, and 44.

With this Amendment, Applicant has also presented new dependent claims 50 through 52, which depend from new independent

claim 49, as well as amended dependent claims 25 and 26, which depend directly or indirectly from amended independent claim 24, and amended dependent claim 44, which now depends from new independent claim 53. For reasons stated above and previously herein, these dependent claims should also be deemed patentable and should be allowed.

These claims are patentable in addition because they recite an additional element, namely, the utilization of a temperature acquisition module which may take the form of a temperature sensing probe structured to directly measure the existing temperatures of food products to assure that such food products are within acceptable performance parameters. The acceptable performance parameters may include a temperature range for each food product which is at least partially defined by a predetermined low temperature and a predetermined high temperature. The Examiner's attention is directed to the example of an "overcooked hamburger" on pages 22 and 23 of Applicant's specification. The temperature acquisition module directly measures the temperature of the food product, and in doing so, a determination will be made that the food product not only meets minimum or government standards, such as HACCP, e.g., wherein a cooked hamburger has a temperature of at least 157 degrees Fahrenheit, but also standards which exceed the minimum or government standards, e.g., whether the hamburger is at or beyond a temperature which would indicate that the hamburger is "overcooked," and as such, not entirely acceptable for presentation to or consumption by patrons of the food service site or

establishment. Therefore, at least one preferred embodiment of the present invention provides for the determination of the current existing temperature of the food products, themselves, rather than merely monitoring a particular appliance associated with the storage or processing of the food product, such as the grill, freezer, etc. That is, while the ZEOM product may include the ability to monitor certain **appliances** such as freezers, grills, etc., there is no direct teaching in either the ZEOM product or the Richardson patent of a temperature acquisition module having the structural and operational versatility evident in Applicant's claimed invention, which prevents the serving of an "overcooked" food product. This feature further distinguishes the Applicant's invention from the references of records.

7. Other References Mentioned in PTO Office Action.

In addition, the references of record to Bemer et al. (WO 01/061552 A2) and Ishizawa et al. (JP410301472A) have been considered both singularly and in combination with one another and with the primary references of record. Applicant agrees with the Examiner that these additional references are of secondary interest only.

IV. Conclusion

This application has been amended to include both new and amended claims, as set forth in detail above. These claims recite patentable subject matter which is distinguishable from the ZEOM product, whether considered singularly or in combination with the

Richardson patent. It is submitted that the disclosure of the ZEOM product should be limited to the description appearing in the Oklahoma Telecom and Waters publications, and that the Real-Time publication is not properly cited as prior art and should be withdrawn, for reasons stated. Regardless, the combination of the ZEOM product and the Richardson patent is submitted to be an application of hindsight knowledge of Applicant's invention, but even if it were a viable combination, it would still fail to teach, suggest or render obvious the Applicant's invention as recited in these new and/or amended claims.

Accordingly, based on the amended and new claims presented herein, the above Remarks and the contents of the references of record, the Examiner is respectfully requested to reconsider her position. Since nowhere in the art is this new, novel and not obvious combination to be found, taught, or suggested, it is urged that this case is now in condition for allowance, which favorable action is respectfully solicited.

Finally, a Request for an appropriate Extension of Time is enclosed herewith along with the corresponding PTO fee. In the event that any filing fee may be required by the filing of this paper, the Assistant Commissioner is hereby authorized to charge any fees and/or credit to our **Deposit Account No. 13-1227.**

In addition to the above, and in accordance with 37 C.F.R. 1.121, attached hereto is a marked-up version of the changes made to the specification and claims by the current Amendment, which is captioned "Version with Markings to Show Changes Made."

The paragraph beginning at line 12 of page 34 has been amended as follows:

--In any event the result records are transferred to the control center 24 and stored and further processed as at 80 so as to provide effective evidence of a consistent pattern of compliance with the predetermined standards or other regulatory requirements under which the plurality of food service outlets 12 are required to operate. The processing of the result records 80 further includes making them available in document or hard copy form when required, such as in response to the government derived standards.--

In the claims:

Claims 1, 5, 6, 7, 10, 11, 18, 19, 20, 23, 28, 29, 33, 36, 40 and 41 have been cancelled without prejudice.

New claims 49 through 54 have been submitted with this Amendment.

The following claims have been amended:

2. (Amended) A system as in claim [1] 49 wherein said predetermined standards comprise government regulatory requirements.

8. (Amended) A system as recited in claim [7] 49 wherein each of said interactive test items are communicated to the user on said display concurrently with at least one related user response.

12. (Amended) A system as recited in claim [7] 49 wherein each of

said interactive test items are communicated to the user on said display concurrently with a plurality of related user responses.

15. (Amended) A system as recited in claim [1] 49 wherein said monitoring program includes a scheduling application including [preferred] performance of said plurality of [inquisitory] [tasks] interactive test items at a specified time.

16. (Amended) A system as recited in claim 15 wherein said scheduling application indicates [preferred] performance of said plurality of [inquisitory tasks] interactive test items in a predetermined sequence.

17. (Amended) A system as recited in claim 16 wherein said monitoring program further comprises an alert application for communicating untimely input of a corresponding user response to a scheduled [inquisitory task] interactive test item.

21. (Amended) A system as recited in claim [20] 49 wherein said input facilities comprise a display activated keypad structured to allow user selection of an appropriate one of a plurality of displayed user responses.

22. (Amended) A system as recited in claim [1] 49 wherein said input facilities comprise a display activated keypad structured to allow user selection of an appropriate one of said user responses displayed concurrently with a related [inquisitory task] one of said interactive test items.

24. (Amended) A system for monitoring [at least one of] a

[plurality of] food service site[s], said system comprising:

a) a portable processor assembly operable at the site and comprising memory, a display and input facilities,

b) said portable processor assembly including a monitoring program determinative of compliant operational performance of the site,

c) said monitoring program comprising a task application relating to a plurality of different operational categories,

d) said task application including a plurality of interactive test items evident on said display and each requiring a user response indicative of actual conditions associated with said plurality of operational categories,

e) a plurality of predetermined standards defining acceptable performance parameters for said operational categories,

f) a corrective application comprising a plurality of corrective actions evident on said display, each of said corrective actions being responsive to a user response which is non-compliant with associated ones of said plurality of predetermined standards,

g) result records comprised of data derived from a collection of said user responses and indicative of compliance with said predetermined standards, and

h) a control facility including a central processor having sufficient capability to process said result records in

a manner evidencing a pattern of compliance with said predetermined standards.

25. (Amended) A system as recited in claim 24 wherein said input facilities comprise a temperature acquisition module interfaced with said portable processor and structured to communicate data defining said user response and representative of actual conditions of [said portable processor] a food product.

26. (Amended) A system as recited in claim 25 wherein said temperature acquisition module comprises a probe assembly including a temperature sensing probe operative by the user to [determine] directly measure existing temperature data of the food product, said temperature data automatically communicated to the user on said display and defining a corresponding user response.

30. (Amended) A system as recited in claim [24] 26 wherein said plurality of predetermined standards comprise government derived temperature standards.

31. (Amended)A system as recited in claim 30 wherein said plurality of predetermined standards further comprise owner derived temperature standards.

32. (Amended) A system as recited in claim 31 wherein said owner derived temperature standards exceed said government derived standards and compromise a temperature range of the food product at least partially defined by a predetermined low temperature and a predetermined high temperature.

34. (Amended) A system as recited in claim [33] 24 wherein said corrective application further comprises requirements for a supplementary user response indicative of compliance of actual conditions with related ones of said plurality of predetermined standards.

35. (Amended) A system as recited in claim 24 wherein said monitoring program further comprises an alert application for communicating untimely user responses to said plurality of [text] interactive test items.

37. (Amended) A process as recited in claim [36] 53 comprising communicating a plurality of corrective actions to the user in response to entry of user responses indicative of existing conditions being non-compliant with the plurality of standards.

42. (Amended) A process as recited in claim [41] 53 comprising manually selecting at least one of the provided plurality of user responses.

43. (Amended) A process as recited in claim [42] 53 comprising automatically selecting at least one of the provided plurality of user responses.

44. (Amended) A process as recited in claim [41] 53 comprising defining requested user responses as temperatures automatically determined by direct temperature sensing of food products.

46. (Amended) A process as recited in claim 40 comprising scheduling periodic performance of the plurality of

interactive test items and required user responses.

47. (Amended) A process as recited in claim 46 comprising determining untimely entry of user responses to scheduled interactive test items being indicative of untimely user performance of scheduled test items.

48. (Amended) A process as recited in claim [36] 54 comprising processing the result records to establish documentary evidence of a pattern of compliance with said plurality of standards.

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Respectfully submitted,

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Applicant: Ronald Jacobson

Serial No.: 09/826,428

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For: MONITORING SYSTEM AND PROCESS FOR THE FOOD SERVICE INDUSTRY

Group Art Unit 3623
Meinecke Diaz, S., Examiner

VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the specification:

The paragraph beginning at line 5 of page 14 has been amended as follows:

--As shown in the accompanying Figures, the present invention is directed towards a system and associated process for monitoring at least one but preferably a plurality of food service sites for purposes of assuring that each of the sites is operating in accordance with predetermined standards. The predetermined standards may be mandated by the federal or local government, may be accepted as industry wide standards or may be derived from a contractual obligation of the one or more food service sites. Further, the system and method of the present invention is capable of obtaining, storing and processing result records which may be used as evidence of a consistent pattern of compliance with the applicable predetermined standards under which the various food service sites are required to operate.--

The paragraph beginning at line 14 of page 16 has been amended

as follows:

--With reference to Figures 1 and 2, downloading of the monitoring program 20 is schematically represented [as 20] and may be accomplished by means of a host computer 22, also located at each of the plurality of food service sites 12. Accordingly, [a] the system may comprise as processing components, the use of the local ,portable processor assembly 16 and the host computer 22, which may be in the form of a conventional desk top PC. Applicable collected or stored data can eventually be transferred to a central control facility 14, which may be in the form of a processing center 24 associated with the owner/controller. Communication between the plurality of sites 12 and the control facility 24 can be by means of the Internet, which will also be explained in greater detail hereinafter. It is also important to note that each of the processor assemblies 16 contain a display in the form of a visually observable display screen 26. --

The paragraph beginning at line 4 of page 17 has been amended as follows:

--In addition, each processor assembly 16 includes sufficient memory and/or database storage facilities as indicated in Figure 2 and at least one but preferably a plurality of input facilities. The input facilities may include a manual entry in the form of a touch sensitive keypad communicated to the user on the display screen 26 and operable by effective "finger-tap" response. In certain instances the finger-tap response may be more convenient

than using probe or stylus application for manual entry. In addition, on some portable processors, a calculator function is typically available with near/full screen spread of 5x5 buttons which may be sufficient to utilize adequate finger- tap response.--

The paragraph beginning at line 23 of page 20 has been amended as follows:

--The user responses will be collected and result in the establishment of the result records which are eventually transferred for processing to the process center or central control facility 24 of the owner/controller 14. More specifically, the result records are derived from data entries of the user responses which have been entered into the [date] data base of the individual processor assemblies 16 by means of the plurality of input facilities as set forth above. In addition, the result records are also derived from data which may be obtained by the user performing an indicated corrective action in the event that the existing condition of the test items being monitored are non-compliant with the parameters of the predetermined standard.--

The paragraph beginning at line 1 of page 26 has been amended as follows:

--A login key will be provided in the identifying window of Figure 5 and when activated by finger-tap response, a home or login screen, as demonstrated in Figure 6, will occupy the display 26 of the corresponding processor assembly 16 and indicated as 48 in

Figure 3. The home or login screen will display various informative data including personnel present on an existing shift, probe calibration condition and site designation. In addition, alert notices as at 50 may be provided to indicate to the user or other personnel various messages relevant to the daily or routine operation of the food service site or a variety of other conditions, which currently exist or which may require attention in the future. More specifically, activation of the site indicator as at 52 will cause display of the various food service [site] sites 12 and/or their location such as when a plurality of food service sites 12 are operating under an identical monitoring program and are otherwise networked into a common field of operation. -

The paragraph beginning at line 10 of page 27 has been amended as follows:

--Subsequent to the review and calibration of the probe assembly 30 as at 54 and 56 of Figure 3, and upon the user returning to the home screen of Figure 6, the user is ready to select a first operational category or a plurality of operational categories as at 58 to be sequentially monitored. With reference to Figure 9 the operational category screen will be evident on display 26 and include a plurality of individual categories such as deliveries, freezer check, grill check, etc. Naturally a much larger number of operational categories will normally be included in conducting the complete monitoring process. However, at any given time of day a lesser number of operational categories may be

indicated for performance check or review as indicated. The user reviews the display list of operational categories and chooses individual ones thereof by any type of manual entry such as finger-tap entry.--

The paragraph beginning at line 19 of page 32 has been amended as follows:

--It is again emphasized that an important feature of the present invention is the creation of the result records as at [74] 76 so as to provide a full and complete evaluation of the performance parameters of any one or more food service sites 12 being monitored throughout the entire system 10 as demonstrated in Figure 1. It is also emphasized that the importance of the result records are based on the fact that they are derived from data entries comprised of the plurality of user responses, as well as corrective [action] actions 72 performed by the user. Accordingly, it is important that in many instances the corrective action 72 be followed by a supplementary user response 74 (see Figure 3). The supplementary user response 74 indicates the specific corrective action 72 taken and/or a rechecking as to the new conditions existing subsequent to taking any related corrective action. For example, a review of the temperature at which a hamburger or other food product is being cooked may initially indicate that it is below standards. Adjustment of the appliance, cooking time, etc. representing the corrective actions will hopefully result in all other food products being cooked at the will therefore be an

important part of the formulation of the result records along with the various user responses, corrective actions taken and results of the corrective actions, as set forth above.--

The paragraph beginning at line 17 of page 33 has been amended as follows:

--The result records 76 once formulated and as initially stored in the data base of the processor 16 [is] are eventually communicated to the owner/controller 14 and/or more specifically to the central control facility which, as set forth above, may be represented by a processing center, as at 24 in Figure 1. Downloading of the result records 76, and other appropriate data can first be accomplished from the processor 16 to the host computer 22 located at the individual food service site 12. Complete data transfer of the result records and other information could be accomplished by a variety of conventional communication facilities, including the Internet, which establishes an appropriate communication link between the individual host computers 22 and the central control center and associated process center 24. Alternatively, modern technological advancements in the computer sciences, including both hardware and software, can also allow data communication or transfer of the result records directly from the individual processor 16 such as by wireless application protocol (WAP) if the individual PDA or like processor 16 incorporate WAP capabilities.--